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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,292	03/01/2002	Kristopher W. Gerulski	29252/3334	3108

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EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/087,292	Applicant(s) GERULSKI, KRISTOPHER W.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10, and 27 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>9</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Claims 8-10 are also withdrawn from further consideration because these claims are drawn to non-elected species II (Figs. 6-9 and 14). Even though, these claims were examined on the office action mailed on 7/24/03 but it has been noted that they are not part of the elected species I (Figs. 1-4 and 14). In claim 8, the cutter bar is attached to the reinforcement member as is shown in Fig. 6 of the application which is part of the non-elected species II.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, 7, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrin (4,474,318). Regarding claim 1, Perrin teaches a warp dispenser 10 including a trunk 14, 16, 18 defined by the rear wall 14, bottom wall 16. Perrin also teaches that the front wall 18 and a lid 12 hinged to the trunk 14, 16, 18. Perrin also teaches a cutter bar 18 having a base and a plurality of teeth extend from the base. The main body of the saw-toothed metal 28 defines the base. Perrin also teaches that each tooth is terminating on first and second sides at a valley proximate the base. Perrin also implicitly teaches that base is attached to the trunk 14, 16, 18, and each valley is spaced away from the trunk 14, 16, 18 to which the base is attached by a predetermined registration zone. Each valley of the cutter bar 28 is spaced away from the bottom wall 16 of the trunk 14, 16, 18 by a predetermined registration zone. The registration zone is defined in the specification by the applicant as the distance between

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the valleys and the bottom edge of the tear flap. The valleys of the cutter bar 28 are spaced by a predetermined distance from the bottom edge of the tear flap 25 as shown in Figs. 7 and 8. See Figs. 1-8 and col. 3, lines 31-68 and col.4, lines 1-61.

Regarding claim 4, Perrin teaches everything noted above including that the cutter bar 28 is attached to the bottom of the surface of the trunk 14, 16, 18. See Figs. 1 and 6 in Perrin.

Regarding claim 6, Perrin teaches everything noted above including that the front surface of the lid 18 includes means for reinforcing the front surface of the lid 18. The reinforcement panel 40 is defined as the means for reinforcing the front surface of the lid 18. See Fig. 1 in Perrin.

Regarding claim 7, Perrin teaches everything noted above including that the trunk 14, 16, 18 and the lid 12 are formed from a unitary piece of paperboard and the front surface of the lid 18 includes first and second pieces of the paperboard as shown in Fig. 1. The front surface of the lid 18 includes the reinforcement panel 40, which is attached to it.

Regarding claim 27, Perrin teaches everything noted above including that the means 40 for reinforcing the dispenser 10 proximate the cutter bar 28. See Fig. 1 in Perrin.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Perrin. Regarding claims 2 and 3, Perrin teaches everything noted above, but Perrin does not

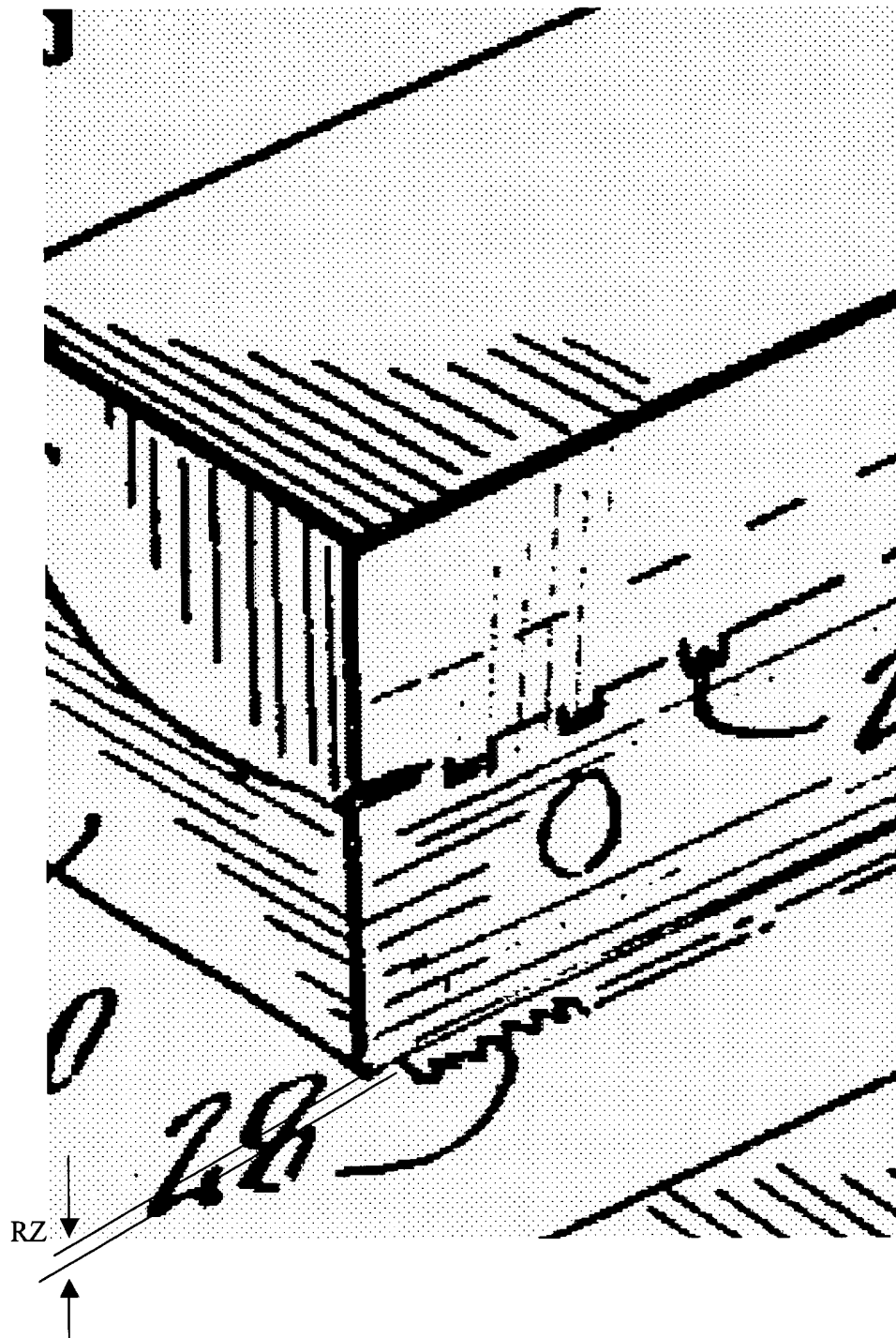
expressly teach that the registration zone has a width of approximately 0.03125 inches that is within a range of 0.01 to 0.05 inches. However, it appears that width of the registration zone defined by the distance of valley of the cutter bar 28 from the bottom edge of the tear flap 25 is approximately 0.03125 inches within the range of 0.01 to 0.05. See Figs. 6-8 in Perrin. The width of the registration zone in Fig. 6 in Perrin appears to be the same as the width of the registration zone in Fig. 2 of the applicant's drawings.

Response to Amendment

6. Applicant's arguments filed 10/28/03 have been fully considered but they are not persuasive. Regarding claims 1, 4, 6, 7 and 27, Applicant's assertion that Perrin fails to anticipate the claims because it does not disclose every limitation in the claims is incorrect. The Examiner is entitled to use the broadest reasonable interpretation of the claims and the cited prior art in making the patentability assessment. In this case, Perrin teaches everything set forth in claims 1, 4, 6, 7, and 27. Applicant's argument that the position of the valleys of the cutter bar 28 relative to the dispensing carton mainly the trunk 14, 16, 18 is not discussed in the specification is incorrect. As it is shown below in the enlarged section of Fig. 6 in Perrin, the valleys of the teeth of the cutter bar 28 is spaced from the bottom edge 16 of the trunk 14, 16, 18 by a predetermined space. This space or the registration zone (RZ) is predetermined since it is configured before the installation or attachment of the cutter bar 28 to the trunk 14, 16, 18. Fig. 6 in Perrin is part of the disclosure and Perrin in this Fig implicitly discloses the position of the valleys of the cutter bar 28 relative to the trunk 14, 16, 18. Regarding applicant's argument that the advantages of the having a predetermined registration zone are not discussed in the specification, the Examiner asserts that discussion

of the advantages of a limitation in the specification is not part of the requirements in making the patentability assessment. Regarding applicant's argument that Perrin does not teach that the reinforcement member is not between the bottom panel 16 and the cutter bar 28, the Examiner asserts that claim 28 is not set forth as applicant is asserted. Claim 27 sets forth that "means for reinforcing the dispenser proximate the cutter bar". Perrin teaches a reinforcement member 40 that reinforces the dispenser 10. The reinforcement 40 is mounted very near or proximate the cutter bar 28. Regarding applicant's arguments that Perrin does not disclose or suggest that the registration zone is between 0.01 or 0.05 inches or .03125 inches, as previously stated by the Examiner it appears The width of the registration zone in Fig. 6 in Perrin to be the same as the width of the registration zone in Fig. 2 of the applicant's drawings. The width of the registration zone defined by the distance of valley of the cutter bar 28 from the bottom edge of the tear flap 25 appears to be around 0.03125 inches which is within the range of 0.01 to 0.05.

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Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Passamoni (6,375,058 and 6,405,913), Burbank (2,771,186 and 2,766,877), Hauser (4,334,644), Pottorff (4,852,442), Oketani et al. (4,899,918), Lo Duca (4,967,911), VanderLugt (4,648,536), Schramm (3,567,087), Frank (5,984,158), Bagsdale (4,238,065), Aihara (5,328,071), Pollard et al. (5,839,634), Roccaforte (4,506,816), and Kawai et al. (6,024,150) teach a film dispenser including a cutting bar having a base and valleys and reinforcement member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

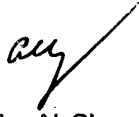
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

January 5, 2004


Allan N. Shoap
Supervisory Patent Examiner
Group 3700